

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

HERMAN CRUZ,

Plaintiff,

-against-

9:08-CV-0591 (LEK/RFT)

LOUISE TICHENOR, Nurse Practitioner,  
Upstate Correctional Facility; NURSE  
WALSH, Upstate Correctional Facility,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on November 10, 2009, by the Honorable Randolph F. Treece, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 43).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Treece's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 43) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

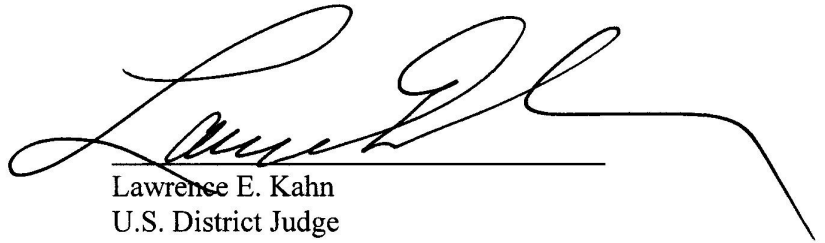
**ORDERED**, that Defendant's Motion to dismiss (Dkt. No. 40) is **GRANTED** and this

action is **DISMISSED in its entirety**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: December 01, 2009  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge